

IPW

Serial No. 10/528,101
Docket No. ARF-084US
(SHO.001)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Hirobumi Toyoda

Serial No.: 10/528,101

Group Art Unit: 3714

Filed: July 25, 2005

Examiner: Meagan J. Thomasson

For: GAME MACHINE AND PROGRAM

Honorable Commissioner of Patents
Alexandria, VA 22313-1450

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Sir:

In response to the Examiner's Election of Species in the Office Action of July 10, 2008, Applicant hereby elects the invention of Species I (on which at least claims 1-4 and 6-12), with traverse.

Applicant respectfully traverses the Election of Species Requirement for the following reasons. The Examiner's search with regard to both Species I and Species II would be coextensive, such that there would be no additional searching burden placed on the PTO in the examination of both Species I and Species II in the same application.

Further, even assuming *arguendo* that a slight, additional searching burden was imposed upon the PTO if both Species I and Species II were examined in the same application, the burden to the Applicant would be much greater in terms of financial considerations, since a divisional application is likely to be filed. Divisional applications are costly, with the present filing, issue, and maintenance fees alone being \$5,000. Thus, from a financial standpoint, Applicant's costs associated with filing and prosecuting a divisional application are believed to outweigh any burden on the Examiner should Species I and Species II be examined in the same application.

Serial No. 10/528,101
Docket No. ARF-084US
(SHO.001)

2

For the above reasons, Applicant respectfully requests that the Examiner withdraw the Election of Species Requirement, and examine both Species I and Species II in the same application.

Applicants reserve the opportunity to file a Divisional Application for the non-elected species later.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: August 11, 2008



Scott M. Tulino, Esq.
Registration No. 48,317
Sean M. McGinn, Esq.
Registration No. 34,386

**MCGINN INTELLECTUAL PROPERTY
LAW GROUP, PLLC**
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817
(703) 761-4100
Customer No. 21254